

February 27, 2006

Mary Burke, Secretary
Department of Commerce
201 West Washington Avenue
Madison, WI 53707

Dear Secretary Burke:

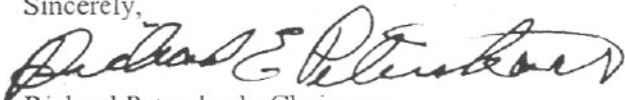
On February 23, 2006, the Small Business Regulatory Review Board (SBRRB) heard testimony from Jerry Deschane, Deputy Executive Vice President of Wisconsin Builders Association on a proposed Wisconsin Department of Commerce rule relating to Erosion Control, Sediment Control and Storm Water Management for the Construction of Buildings. The SBRRB's statutory authority for rule review is contained in 227.14(2g). As part of its testimony, the association asked the SBRRB to determine whether the small business impact analysis Commerce prepared for the rule complied with Wis. Stats., 227.14(2)(a) 6. This statute requires the disclosure in the Notice of Hearing of an analysis and the supporting documentation that was used to support an agency's determination of the effect of a rule on small business.

The SBRRB has determined that Commerce's certification that this rule would have a minimal impact on small business is not supported by any documentation and that there is credible evidence that the rule will impact a substantial number of small businesses. Additionally, because of Commerce's determination that a substantial number of small businesses would not be affected by the rule, Commerce did not analyze compliance costs in order to make an accurate determination of whether the economic impact on small business is significant.

Small businesses can provide meaningful comments at public hearing only when the Notice of Hearing adequately describes the economic impact of a proposed rule on small business. The SBRRB finds that small businesses were not awarded the opportunity to fully understand the impact of this rule because Commerce did not comply with Wis. Stats. 227.14(2)(a) 6. The SBRRB requests that Commerce reexamine its conclusion that an insubstantial number of small businesses would be affected by this rule and, if it reaches a different conclusion, provide an accurate, fact-based analysis of the economic impact of the compliance costs to small business as statutorily required.

If you have any questions on the actions taken by the SBRRB, please contact me at (608)283-6726.

Sincerely,



Richard Petershach, Chairman
Small Business Regulatory Review Board

Cc: Ron Sklansky, Joint Legislative Council
Jerry Deschane, Wisconsin Builders Association
Aaron Olver, Executive Assistant, Department of Commerce
Greg Jones, Administrator, Safety and Buildings Division, Department of Commerce

*Small Business Regulatory Review Board
"Giving a Voice to Small Business in Wisconsin"*